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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5230 SOUTH DEARBORN ST
CHICAGO, ILLINOIS 60604

MAY 30 1986

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REGIONAL COUNSELCERTIFIED MAIL
RETURN RECEIPT REQUESTEDC.T. Corporation System
Registered Agent for
Gary Development Company, Inc.
1 North Capitol Street
Indianapolis, Indiana 46204

V-W- 86 R- 48

Re: Complaint and Compliance Order
Gary Development Company, Inc.
IND 677 005 916

Gentlemen:

Enclosed please find a Complaint and Compliance Order which specifies this Agency's determination of certain violations by Gary Development Company, Inc., of the Resource Conservation and Recovery Act (RCRA) as amended, 42 USC §6901 et seq., based on inspections of the facility located at 479 North Cline Avenue, Gary, Indiana 46406.


The Complaint and Compliance Order states the reasons for such a determination, establishes a compliance schedule and assesses a civil penalty for the violations as set forth in the Complaint and Compliance Order. This Complaint and Compliance Order is issued pursuant to Section 3008 of RCRA, 42 USC §6928.

Accompanying the Complaint and Compliance Order is a Notice of Opportunity for Hearing. Should you desire to contest the allegations herein, and the assessed penalty, a written request for a hearing is required to be filed with the Regional Hearing Clerk, U.S. EPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604, within 30 days from receipt of this Complaint and Compliance Order. A copy of your hearing request should also be sent to Marc M. Radell, Office of Regional Counsel, U.S. Environmental Protection Agency, at the same address.

Regardless of whether you choose to request a hearing within the prescribed time limit following service of the Complaint and Compliance Order, you are extended an opportunity to request an informal settlement conference.

If you have any questions or desire to request an informal conference for purposes of settlement, please contact Mr. Jonathan Cooper, Waste Management Division, RCRA Enforcement Section, 230 South Dearborn Street, Chicago, Illinois 60604, at (312) 886-4464.

Sincerely,



Basil G. Constantelos, Director
Waste Management Division

Enclosures

cc: David Lamm, IDEM
Tom Russell, IDEM
Larry Hagen, Gary Development Company, Inc.

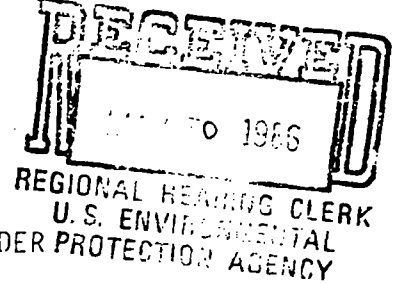
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN THE MATTER OF:

GARY DEVELOPMENT COMPANY, INC.
479 NORTH CLINE AVENUE
P.O. BOX 6056
GARY, INDIANA 46406
IND 077 005 916

DOCKET NO.

COMPLAINT AND
COMPLIANCE ORDER



y-w- 86 R- 45

PREAMBLE

This Complaint and Compliance Order is filed pursuant to Section 3008(a)(1) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), 42 USC §6928(a)(1), and the United States Environmental Protection Agency's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR Part 22. The Complainant is the Director of the Waste Management Division, Region V, United States Environmental Protection Agency (hereinafter U.S. EPA). The Respondent is Gary Development Company, Inc., as owner and operator of Gary Development Company, Inc.

This Complaint and Compliance Order is based on information available to U.S. EPA, including the Respondent's Part A of the RCRA Permit Application, dated November 1980; a U.S. EPA contracted ground-water monitoring inspection report dated October 1984; and an inspection report and correspondence from the Indiana State Board of Health (ISBH). Based on the review of these documents, violations of applicable State and Federal regulations have been identified.

Pursuant to Section 3008(a)(1) of RCRA, 42 USC §6928(a)(1), and based on information obtained from review of documents related to site hydrogeology, past inspections of the site, and the Part A of the RCRA permit application, it has been determined that the Respondent is in violation of Subtitle C of RCRA.

Specifically, Respondent has been determined to be in violation of Sections 3004 and 3005, 42 USC §§6924 and 6925, U.S. EPA regulations at 40 CFR 270.1(b), 270.10 (a), and the Indiana Administrative Code (IAC), Ind. Rev. Stat. 1985, as amended, and regulations adopted by the Indiana Environmental Management Board, including Title 320 IAC 4.1-38-1; 4.1-34-1(a); 4.1-20-1(a); 4.1-20-2; 4.1-20-3(a) through (e); 4.1-20-4(a) through (f); 4.1-20-5; 4.1-22-24(a) and (b); 4.1-16-4; 4.1-17-3(a) through (c); 4.1-18-2; 4.1-19-2(a)(1) and (5); 4.1-19-7; 4.1-19-4(b)(1) and (2); 4.1-16-6(d); 4.1-16-6(b)(1); 4.1-16-5(c); and 4.1-21-3(a).

JURISDICTION

Jurisdiction for this action is conferred upon U.S. EPA by Sections 2002(a)(1), 3006(b) and 3008(a)(2) of RCRA; 42 USC §§6912(a)(1), 6926(b) and 6928(a)(2), respectively.

On August 18, 1982, the State of Indiana was granted Phase I Interim Authorization by the Administrator of U.S. EPA pursuant to Section 3006(b) of RCRA, 42 USC §6926(b), to administer a hazardous waste program in lieu of the Federal program. See 47 Federal Register 357,970. On January 31, 1986, the State of Indiana was granted final authorization. See 51 Federal Register 3953. As a result, facilities in Indiana qualifying for interim status under 40 CFR 270.70 are regulated under the Indiana provisions found at 320 IAC 4.1, et seq., rather than the Federal regulations set forth at 40 CFR Part 265. Section 3008(a)(2) of RCRA, 42 USC §6928(a)(2), provides that U.S. EPA may enforce State regulations in those States authorized to administer a hazardous waste program. Notice to the State pursuant to this section has been provided by U.S. EPA.

FINDINGS

1. Respondent owns and operates a hazardous waste management facility named Gary Development Company, Inc., located at 479 North Cline Avenue, Gary, Indiana 46406. Respondent is an Indiana corporation whose registered agent in Indiana is CT Corporation System, 1 North Capitol Avenue, Indianapolis, Indiana 46204.

2. Section 3010 of RCRA, 42 USC §6930, requires any person who generates or transports hazardous waste, or who owns or operates a facility for the treatment, storage, or disposal of hazardous waste to notify U.S. EPA of such activity within 90 days of the promulgation of regulations under Section 3001 of RCRA, 42 USC §6921. Section 3010 of RCRA also provides that no hazardous waste subject to U.S. EPA regulation may be transported, treated, stored, or disposed of unless the required notification has been given.

3. U.S. EPA published regulations concerning the generation, transportation, and treatment, storage or disposal of hazardous waste on May 19, 1980. These regulations are codified at 40 CFR Parts 260 through 265. Notification to U.S. EPA of hazardous waste handling was required in most instances no later than August 18, 1980.

4. Section 3005 of RCRA, 42 USC §6925, requires U.S. EPA to publish regulations requiring each person owning or operating a hazardous waste treatment, storage, or disposal facility to obtain a RCRA permit. Such regulations were published on May 19, 1980, and are codified at 40 CFR Parts 124, 270 and 271. The regulations require persons who treat, store, or dispose of hazardous waste to submit Part A of the permit application in most instances no later than November 19, 1980.

5. Section 3005(e) of the Act provides that an owner or operator of a facility is authorized to operate a hazardous waste treatment, storage or disposal facility pending final administrative disposition of a permit application provided that: (1) the facility was in existence on November 19, 1980; (2) the requirements of Section 3010(a) of the Act concerning notification of hazardous waste activity have been complied with; and (3) application for a permit has been made. This statutory authority to operate is known as interim status. U.S. EPA regulations implementing these provisions are found at 40 CFR Part 270.

6. Respondent did not file a timely notification of its hazardous waste activity to U.S. EPA, by submission of EPA Form 8700-12, as required by Section 3010(a) of RCRA, 42 USC §6930(a). On September 10, 1980, which is 23 days after the August 18, 1980, deadline for submission of this notification, the Vice-President of the facility called U.S. EPA to request a copy of the form, which he admitted had not been sent to U.S. EPA. To date, no notification form from Respondent is on file at U.S. EPA.

7. On November 18, 1980, Part A of the RCRA permit application was submitted by Respondent as required by Section 3005(a) of RCRA, 42 USC §6925(a), and 40 CFR 270.1(b). The Part A permit application identifies the hazardous waste management process as disposal in a landfill (D80) and identifies the owner and the operator as Gary Development Company, Inc.

8. Interim status has never been achieved by Respondent because the facility failed to notify by August 18, 1980.

9. Part A of Respondent's RCRA permit application lists the following hazardous wastes handled by the facility:

- a. F006 - wastewater treatment sludges from electroplating operations (320 IAC 4.1-6-2);
- b. K087 - decanter tank tar sludge from coking operations (320 IAC 4.1-6-3); and
- c. F003 and F005 - two separate lists of specified, spent, non-halogenated solvents and still bottoms from the recovery of those solvents (320 IAC 4.1-6-2).

10. Pursuant to Title 320 Indiana Administrative Code (IAC) 4.1-10-2, generators of hazardous waste in Indiana must submit to the Technical Secretary of the Indiana Environmental Management Board (EMB) biennial reports which specify to whom their hazardous wastes have been sent in the preceding calendar year. These reports must be certified as true by the generators under penalty of law.

- a. EMB has received certified annual reports pursuant to 320 IAC 4.1-10-2 from at least two generators who report that they sent hazardous wastes to Respondent in the calendar year 1981. These generators are Indiana Harbor Works, U.S. EPA ID No. IND 005 462 601, and American Chemical Service, U.S. EPA ID No. IND 016 360 265.
- b. Between December 5, 1980, and November 16, 1981, American Chemical Service delivered at least 37 manifested shipments of "flammable liquid paint sludge" to Respondent for disposal. American Chemical Service used

hazardous waste number F005 to describe the waste. F005 refers to specific non-halogenated solvents and still bottoms. Each shipment consisted of one (1) tank containing 2,750 gallons.

- c. U.S. EPA correspondence with Respondent's former attorney, Mr. Kyle, dated February 8, 1984, states that a review of the process generating wastes at American Chemical Service was undertaken. The conclusion reached was that any of the following hazardous waste types handled at the American Chemical Service facility might be present in wastes disposed of at Respondent's landfill:

(i) Hazardous wastes listed at 320 IAC 4.1-6-2:

- (A) F001 - listed spent halogenated solvents used in degreasing;
- (B) F002 - listed spent halogenated solvents and still bottoms;
- (C) F003 - listed spent non-halogenated solvents and still bottoms;
- (D) F005 - listed spent non-halogenated solvents and still bottoms;

(ii) D001 - Hazardous wastes exhibiting the characteristic of ignitability noted at 320 IAC 4.1-5-2(b); and

(iii) Hazardous wastes listed at 320 IAC 4.1-6-4(f):

- (A) U002 - acetone
- (B) U031 - 1 - butanol
- (C) U112 - acetic acid, ethyl ester
- (D) U147 - 2,5 - furandione
- (E) U154 - methanol

- d. During an ISBH inspection June 17, 1985, a representative of the facility, Mr. Hagen, stated that Respondent had accepted neutralized acid and broken battery casings delivered by U.S.S. Lead Refinery, Inc. (IND 047 030 226). Such wastes are possibly hazardous due to the characteristics of corrosivity (D002) and high concentrations of lead (D008) (320 IAC 4.1-5-3 (b) and 4.1-5-5 respectively). This is asserted in an ISBH memorandum dated July 29, 1985.

11. In a March 18, 1985 letter, U.S. EPA requested Respondent to submit Part B of its application for a RCRA permit pursuant to 40 CFR 270.1(b).

To date, neither U.S. EPA nor ISRH has received the Part B from Respondent.

12. Respondent did not submit a Part B permit application, nor certify compliance with applicable RCRA ground-water monitoring and financial requirements by November 8, 1985. Section 3005(e)(2) of RCRA and 40 CFR Part 265 required such permit application and a certification from owners and operators of land disposal facilities in existence on November 19, 1980, in order to continue to operate after November 8, 1985. Therefore, Respondent is precluded from accepting any additional hazardous waste and must close its facility.

13. Harding Lawson Associates, contracted by U.S. EPA, performed a ground-water monitoring inspection at Respondent's facility on September 19, 1984. That inspection determined that Respondent's ground-water monitoring program and monitoring well system do not meet RCRA regulations. The following violations of IAC were identified:

- a. Failure to implement a ground-water monitoring program capable of determining the facility's impact on the quality of ground water in the uppermost aquifer underlying the facility (320 IAC 4.1-20-1(a)) by:

- (i) Installing monitoring wells (at least one) hydraulically upgradient from the limit of the waste management area (320 IAC 4.1-20-2(a)(1));

- (ii) Installing monitoring wells (at least three) hydraulically downgradient at the limit of the waste management area (320 IAC 4.1-20-2(a)(2));
 - (iii) Ensuring that upgradient wells yield ground water:
 - (A) Representative of background ground-water quality in the uppermost aquifer near the facility (320 IAC 4.1-20-2(a)(1)(i)); and
 - (B) That is not affected by the facility (320 IAC 4.1-20-2(a)(1)(ii));
- b. Failure to install wells in a manner that maintains the integrity of the monitoring well boreholes (320 IAC 4.1-20-2(c));
- c. Failure to develop, follow, and keep at the facility a ground-water sampling and analysis plan including procedures and techniques for:
 - (i) Sample collection;
 - (ii) Sample preservation and shipment;
 - (iii) Analytical procedures; and
 - (iv) Chain of custody control (320 IAC 4.1-20-3(a));
- d. Failure to test ground water quarterly for one year to establish background concentrations of specified parameters in samples obtained from monitoring wells (320 IAC 4.1-20-3(b) and (c)); these parameters are:
 - (i) Those characterizing the suitability of ground water as a drinking water supply (320 IAC 4.1-20-3(b)(1)) and (320 IAC 4.1-32-3);

- (ii) Those establishing ground-water quality (320 IAC 4.1-20-3(b)(2)); and
 - (iii) Those used as indicators of ground-water contamination (320 IAC 4.1-20-3(b)(3));
- e. Failure to obtain for the indicator parameters four replicate measurements of each sample collected from upgradient wells to determine initial background arithmetic mean and variance by pooling replicate measurements for specified parameters during the first year of monitoring (320 IAC 4.1-20-3(c));
- f. Failure to obtain and analyze ground-water samples for parameters on an annual or semiannual schedule (320 IAC 4.1-20-3(d));
- g. Failure to determine and record the elevation of the ground-water surface each time a sample is obtained (320 IAC 4.1-20-3(e));
- h. Failure to evaluate ground-water surface elevations annually to determine whether monitoring wells are properly located (320 IAC 4.1-20-4(f));
- i. Failure to prepare an outline of a more comprehensive ground-water quality assessment program as required (320 IAC 4.1-20-4(a));
- j. Failure to comply with 320 IAC 4.1-20-4(b) through (d), statistically evaluating any changes in parameters in downgradient wells compared to those in the upgradient wells;

- k. Failure to keep records of the analyses required in 320 IAC 4.1-20-3(c) and (d) and 320 IAC 4.1-20-5, associated ground-water surface elevations, and the statistical calculations and evaluations required in 320 IAC 4.1-20-4(b) throughout the active life of the facility (320 IAC 4.9-20-5(a)(1));
- l. Failure to report specified ground-water monitoring information to the Technical Secretary and Regional Administrator as required by 320 IAC 4.1-20-5(a)(2) and 40 CFR 265.94(a)(2).

14. In a letter dated May 5, 1985, ISBH notified Respondent of violations of financial assurance requirements discovered during a records review on March 26, 1985. No hazardous waste facility certificates of liability insurance have been received at ISBH as required by 320 IAC 4.1-22-24(a) and (b). Respondent has not yet achieved compliance with these requirements.

15. An inspection performed by ISBH on June 17, 1985, found the following violations at Respondent's facility:

- a. No general waste analyses were on file for hazardous wastes received, as required by 320 IAC 4.1-16-4(a).
- b. No general waste analysis plan was on file, as required by 320 IAC 4.1-16-4(b).
- c. No functional internal communications system was found (320 IAC 4.1-17-3(a)) nor were telephones or two-way radio systems immediately available to summon emergency assistance, as required by 320 IAC 4.1-17-3(b).

- d. Functional emergency equipment was not found, as required by 320 IAC 4.1-17-3(c) and (d).
- e. A contingency plan, as required by 320 IAC 4.1-18-2, was not found on file.
- f. Apparent violations of the manifesting procedures found at 320 IAC 4.1-19-2(a)(1) and (5) were observed. Unmanifested wastes were accepted without filling out forms required at 320 IAC 4.1-19-7.
- g. Records were not available indicating the description and quantity of waste received or the dates wastes were received and disposed of, as required by 320 IAC 4.1-19-4(b)(1).
- h. Records were not available indicating disposal locations or quantities of each hazardous waste placed at those locations within the facility, as required by 320 IAC 4.1-19-4(b)(2).
- i. Inspection logs indicating dates, times and inspectors were not kept, as required by 320 IAC 4.1-16-6(d).
- j. Inspections of emergency equipment and security devices were not conducted, as required by 320 IAC 4.1-16-6(b)(1).
- k. "Danger" signs were not posted, as required by 320 IAC 4.1-16-5(c).

operating
record

16. On March 29, 1985, ISBH sent a letter to Respondent notifying the facility of lack of compliance with requirements as follows:

- a. No proof of financial assurance for closure/post-closure had been submitted, as required by 320 IAC 4.1- 22-5 through 4.1-22-12 and 320 IAC 4.1-22-14 through 4.1-22-23.
- b. No proof of liability coverage for sudden and non-sudden accidental occurrences had been submitted, as required by 320 IAC 4.1-22-24.

17. ISBH received an inadequate response from Respondent on April 16, 1985, regarding the deficiencies stated in Finding 15 above.

ORDER

Respondent having been initially determined to be in violation of Sections 3004 and 3005 of RCRA and those portions of 320 IAC 4.1 specified above, the following Compliance Order pursuant to Section 3008(a)(1) of RCRA, 42 USC §6928(a)(1), is entered.

A. Respondent shall, within thirty (30) days of this Order becoming final:

1. Prepare and submit a closure plan and post-closure plan to the Indiana Department of Environmental Management (IDEM), with a copy to Complainant, in accordance with 320 IAC 4.1-21 and 4.1-28 which will result in closure of the facility. These plans shall describe activities which will:
 - a. Minimize the need for further maintenance (320 IAC 4.-21-2(a)); and
 - b. Control, minimize, or eliminate post-closure escape of hazardous waste or hazardous waste constituents to the environment (320 IAC 4.1-21-2 (b)).

The plans must describe activities which will meet the requirements for landfill closure and post-closure care (320 IAC 4.1-28-4), indicate how they will be achieved, schedule the total time required to close the facility (320 IAC 4.1-21-3(a)(4)), and describe continued post-closure maintenance and monitoring for a minimum of thirty (30) years after the date of completing closure.

2. Submit to IDEM, with a copy to Complainant:
 - a. A written cost estimate for closure of the facility in accordance with the closure plan, as required by 320 IAC 4.1-22-3(a);
 - b. A written estimate of the annual cost of post-closure monitoring

and maintenance of the facility in accordance with the applicable post-closure regulations at 320 IAC 4.1-22-13(a);

- c. Evidence of financial assurance for both closure and post-closure care of the facility as specified at 320 IAC 4.1-22-4, 4.1-22-14 and 4.1-22-23;
- d. Evidence of financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operation of the facility, as required by 320 IAC 4.1-22-24(a); and
- e. Evidence of financial responsibility for bodily injury and property damage to third parties caused by non-sudden accidental occurrences arising from operation of the facility, a requirement stated at 320 IAC 4.1-22-24(b).

B. Respondent shall, within thirty (30) days of this Order becoming final, submit to U.S. EPA and IDEM for approval, a plan and implementation schedule (not to exceed 120 days) for a ground-water quality assessment program to be put into effect at Respondent's landfill. This program must be capable of determining whether any plume of contamination has entered the ground water from the landfill, and if so, the rate and extent of migration and the concentrations of hazardous waste or hazardous waste constituents in the ground water as stated at 320 IAC 4.1-20-4(a). The plan must specify:

- 1. Methodology which will be used to investigate site-specific geology and subsurface hydrology at Respondent's landfill in order to yield:

- a. A determination of the thickness and areal extent of the uppermost aquifer at the site and any interconnections which may exist between it and lower aquifers;
 - b. Aquifer hydraulic properties determined from lithologic samples, slug tests, or pumping tests;
 - c. A site water-table contour map from which ground water flow direction and gradient can be determined; and
 - d. Identification of regional and local areas of recharge and discharge of ground water.
2. Proposed location, depth, and construction specifications for each monitoring well. The proposed well system must consist of monitoring wells placed in the uppermost aquifer and in each underlying aquifer which is hydraulically interconnected such that:
 - a. At least one background monitoring well is installed hydraulically upgradient (i.e., in the direction of increasing static head) from the limit of the waste management area. The number of wells, their locations, and depths must be sufficient to yield ground-water samples that are:
 - (i) Representative of background ground-water quality in the uppermost aquifer and all aquifers hydraulically interconnected beneath the landfill; and
 - (ii) Not affected by the landfill itself.

- b. At least three monitoring wells are installed hydraulically downgradient (i.e., in the direction of decreasing static head) at the limit of the waste management area. Their number, locations and depths must ensure that they immediately detect any statistically significant amounts of hazardous waste or hazardous waste constituents that migrate from the waste management area.

Monitoring wells must be cased in a manner that maintains the integrity of the monitoring well borehole. This casing must be screened or perforated and packed with gravel or sand where necessary to enable sample collection at depths where appropriate aquifer flow zones exist. The annular space (i.e., the space between the borehole and well casing) above the sampling depth must be sealed with a suitable material (e.g., cement grout or bentonite slurry) to prevent contamination of samples and the ground water.

3. The hazardous wastes (defined at 320 IAC 4.1.-3-3) and hazardous waste constituents (defined at 320 IAC 4.1-1-7 and listed at 320 IAC 4.1-5-5 and 4.1-6-8) which will be analyzed for in ground-water samples and the basis for selection of those specific constituents (e.g., information stated on manifests of hazardous wastes accepted for disposal at Respondent's landfill, information available from general waste analyses kept at the landfill, etc.);
4. A sample collection plan that contains the following:
 - a. A detailed description of sample-collection procedures;
 - b. Recording of ground-water elevations at each sampling;
 - c. Written procedures for sample preservation and shipment of

ground-water samples that address each constituent for which ground water is being analyzed to ensure accurate laboratory results;

d. A written record and plan showing chain of custody control for samples from the time of collection until analyses are performed;

e. A written description of analytical procedures to be used by laboratories to analyze the ground-water samples; and

f. A written schedule for collection of samples.

5. Procedures for evaluating analytical results to establish the presence or absence of any plume of contamination that may be found and schedules for reporting such results to U.S. EPA and IDEM.

C. Respondent shall:

1. Implement the closure plan, after it has been approved by IDEM, as required by 320 IAC 4.1-21-4(a); and

2. Implement the post-closure plan, as approved by IDEM.

D. Respondent shall implement the ground-water quality assessment program, as approved by Complainant and IDEM, within 120 days of the approved date.

E. Respondent shall, within fifteen (15) days after carrying out the plan for a ground-water quality assessment program, submit to the Technical Secretary of the IDEM and to the U.S. EPA a written report containing the results of the ground-water quality assessment.

F. Respondent shall, within thirty (30) days of receipt of this order, post "Danger" signs in accordance with 320 IAC 4.1-16-5(c).

G. Respondent shall continue the current practice of not accepting hazardous waste for disposal.

The Respondent shall notify U.S. EPA in writing upon achieving compliance with this Order and any part thereof. This notification shall be submitted not later than forty-five (45) days after this Order becomes final to the U.S. EPA, Region V, RCRA Enforcement Section, 230 South Dearborn Street, Chicago, Illinois 60604.

Notwithstanding any other provision of this Order, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 USC §6973, or any other applicable statutory authority, should U.S. EPA find that the handling, storage, treatment, transportation, or disposal of solid hazardous waste at the facility may present an imminent and substantial endangerment to human health or the environment.

ASSESSMENT OF PENALTY

Based upon the violations cited herein, and pursuant to Section 3008(g) of RCRA, 42 USC §6928(g), U.S. EPA assesses a penalty of ONE HUNDRED SEVENTEEN THOUSAND DOLLARS, (\$117,000) against the Respondent. The proposed penalty has been set at the indicated level based upon an analysis of the seriousness of the violations cited herein and the conduct of the Respondent. Payment shall be submitted within sixty (60) days of entry of this Order in the form of a certified or cashier's check made payable to the Treasury of the United States of America, and shall be remitted to U.S. EPA, P.O. Box 70753, Chicago, Illinois 60637. Copies of the transmittal of payment shall be sent to both the Regional Hearing Clerk, Planning and Management Division, and the Solid

Waste and Emergency Response Branch Secretary, Office at Regional Counsel,
U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604.

Failure to comply with any requirement of the above Compliance Order shall subject Respondent to liability for a civil penalty of not more than \$25,000 per day for each day of such violation, as provided in Section 3008(c) of RCRA, 42 USC §6928(c).

NOTICE OF OPPORTUNITY FOR HEARING

The above-named Respondent has the right to request a hearing to contest any material factual allegation set forth in the Complaint and Compliance Order or the appropriateness of any proposed compliance schedule or penalty. Unless said Respondent has requested a hearing in writing not later than thirty (30) days from the date this Complaint is served, Respondent may be found in default of the above Complaint and Compliance Order.

To avoid a finding of default by the Regional Administrator, you must file a written answer to this Complaint with the Regional Hearing Clerk, Planning and Management Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, within thirty (30) days of your receipt of this notice. A copy of your answer and any subsequent documents filed in this action should also be sent to Marc M. Radell, Assistant Regional Counsel, at the same address. Failure to answer within (30) days of receipt of this Complaint may result in a finding by the Regional Administrator that the entire amount of penalty sought in the Complaint is due and payable and subject to the interest and penalty provisions contained in the Federal Claims Collection Act of 1966, 31 U.S.C. §§3701 et seq.

Your answer should clearly and directly admit, deny, or explain each of the factual allegations of which you have knowledge. Said answer should contain: (1) a definite statement of the facts which constitute the grounds of defense, and (2) a concise statement of the facts which you intend to place at issue. The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a hearing.


The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR Part 22, are applicable to this administrative action. A copy of these Rules is enclosed with this Complaint.

SETTLEMENT CONFERENCE

Whether or not you request a hearing, you may confer informally with U.S. EPA concerning (1) whether the alleged violations in fact occurred as set forth above; (2) the appropriateness of the compliance schedule; and (3) the appropriateness of any penalty assessment in relation to the size of your business, the gravity of the violations, and the effect of the penalty on your ability to continue in business.

You may request an informal settlement conference at any time by contacting Mr. Jonathan Cooper at telephone number (312) 886-4464; however, any such request will not effect the thirty day time limit for responding with an answer to this Complaint and Compliance Order. U.S. EPA encourages all parties to pursue the possibilities of settlement through informal conferences.

DATED this 30th day of May, 1986


Basil G. Constantelos, Director
Waste Management Division
Complainant
U.S. Environmental Protection Agency
Region V

CERTIFICATE OF SERVICE

I hereby certify that I have caused copies of the foregoing Complaint and Compliance Order to be served upon the persons designated below on the date below, by causing said copies to be deposited in the U.S. Mail, First Class and certified return receipt requested, postage prepaid, at Chicago, Illinois in envelopes addressed to:

CT Corporation System
Registered Agent for
Gary Development Company, Inc.
1 North Capitol Avenue
Indianapolis, Indiana 46204

Mr. Larry Hagen, V.P.
Gary Development Company, Inc.
479 North Cline Avenue
Gary, Indiana 46406

I have further caused the original of the Complaint and Compliance Order, and this Certificate of Service to be served in the office of the Regional Hearing Clerk located in the Planning and Management Division, U.S. EPA, Region V at 230 South Dearborn Street, Chicago, Illinois 60604, on the date below.

These are said persons' last address known to the subscriber.

Dated this 30 day of May, 1986.

Jean Sharp, for
Secretary,
Hazardous Waste Enforcement Branch